

vided, and the processes and procedures applied by the Administrator when establishing such allocation.

(4) AIRCRAFT ALTITUDE.—Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

(5) COSTS DEFINED.—In this subsection, the term “costs” includes operation and maintenance costs, leasing costs, and overhead expenses associated with the services provided and the facilities and equipment used in providing such services.

(c) USE OF EXPERTS AND CONSULTANTS.—In developing the system, the Administrator may consult with such nongovernmental experts as the Administrator may employ and the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary. Notwithstanding any other provision of law to the contrary, the Administrator may retain such experts under a contract awarded on a basis other than a competitive basis and without regard to any such provisions requiring competitive bidding or precluding sole source contract authority.

(d) PRODUCTION-CERTIFICATION RELATED SERVICE DEFINED.—In this section, the term “production-certification related service” has the meaning given that term in appendix C of part 187 of title 14, Code of Federal Regulations.

(e) ADJUSTMENT OF FEES.—In addition to adjustments under subsection (b), the Administrator may periodically adjust the fees established under this section.

(Added Pub. L. 104-264, title II, §273(a), Oct. 9, 1996, 110 Stat. 3239; amended Pub. L. 106-181, title VII, §719, Apr. 5, 2000, 114 Stat. 163; Pub. L. 107-71, title I, §119(d), Nov. 19, 2001, 115 Stat. 629; Pub. L. 112-95, title I, §121, Feb. 14, 2012, 126 Stat. 19; Pub. L. 115-254, div. B, title V, §539(k), Oct. 5, 2018, 132 Stat. 3371.)

#### PRIOR PROVISIONS

A prior section 45301, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103-305, title II, §209, Aug. 23, 1994, 108 Stat. 1589; Pub. L. 104-287, §5(76), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 105-102, §3(d)(1)(C), Nov. 20, 1997, 111 Stat. 2215, related to authority to impose fees, prior to repeal by Pub. L. 104-264, title II, §§203, 273(a), Oct. 9, 1996, 110 Stat. 3227, 3239, effective 30 days after Oct. 9, 1996.

#### AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-254 substituted “United States Government” for “United States government”.

2012—Subsec. (b). Pub. L. 112-95, §121(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to limitations on fees.

Subsec. (e). Pub. L. 112-95, §121(b), added subsec. (e).

2001—Subsec. (b)(1)(B). Pub. L. 107-71 substituted “reasonably” for “directly” and “Administration’s costs, as determined by the Administrator,” for “Administration’s costs” and inserted “The Determination of such costs by the Administrator is not subject to judicial review.” at end.

2000—Subsec. (a)(2). Pub. L. 106-181, §719(1), added par. (2) and struck out former par. (2) which read as follows: “Services (other than air traffic control services) provided to a foreign government.”

Subsec. (d). Pub. L. 106-181, §719(2), added subsec. (d).

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

#### EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

#### OVERFLIGHT FEES

Pub. L. 108-176, title II, §229, Dec. 12, 2003, 117 Stat. 2532, provided that:

“(a) ADOPTION AND LEGALIZATION OF CERTAIN RULES.—

“(1) APPLICABILITY AND EFFECT OF CERTAIN LAW.—Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act [Pub. L. 107-71] (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, is deemed to apply to and to have effect with respect to the authority of the Administrator of the Federal Aviation Administration with respect to the interim final rule and final rule, relating to overflight fees, issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

“(2) ADOPTION AND LEGALIZATION.—The interim final rule and final rule referred to in subsection (a), including the fees issued pursuant to those rules, are adopted, legalized, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically adopted, authorized, and directed as of the date those rules were originally issued.

“(3) FEES TO WHICH APPLICABLE.—This subsection applies to fees assessed after November 19, 2001, and before April 8, 2003, and fees collected after the requirements of subsection (b) have been met.

“(b) DEFERRED COLLECTION OF FEES.—The Administrator shall defer collecting fees under section 45301(a)(1) of title 49, United States Code, until the Administrator (1) reports to Congress responding to the issues raised by the court in *Air Transport Association of Canada v. Federal Aviation Administration and Administrator, FAA*, decided on April 8, 2003, and (2) consults with users and other interested parties regarding the consistency of the fees established under such section with the international obligations of the United States.

“(c) ENFORCEMENT.—The Administrator shall take an appropriate enforcement action under subtitle VII of title 49, United States Code, against any user that does not pay a fee under section 45301(a)(1) of such title.”

#### § 45302. Fees involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL AUTHORITY AND MAXIMUM FEES.—The Administrator of the Federal Aviation Administration may impose fees to pay for the costs of issuing airman certificates to pilots and certificates of registration of aircraft and processing forms for major repairs and alterations of fuel tanks and fuel systems of aircraft. The fol-

lowing fees may not be more than the amounts specified:

- (1) \$12 for issuing an airman's certificate to a pilot.
- (2) \$25 for registering an aircraft after the transfer of ownership.
- (3) \$15 for renewing an aircraft registration.
- (4) \$7.50 for processing a form for a major repair or alteration of a fuel tank or fuel system of an aircraft.

(c) **ADJUSTMENTS.**—The Administrator shall adjust the maximum fees established by subsection (b) of this section for changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor.

(d) **CREDIT TO ACCOUNT AND AVAILABILITY.**—Money collected from fees imposed under this section shall be credited to the account in the Treasury from which the Administrator incurs expenses in carrying out chapter 441 and sections 44701–44716 of this title (except sections 44701(c), 44703(g)(2), and 44713(d)(2)). The money is available to the Administrator to pay expenses for which the fees are collected.

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—A fee may not be imposed under this section before the date on which the regulations prescribed under sections 44111(d), 44703(g)(2), and 44713(d)(2) of this title take effect.

(2) **EFFECT OF IMPOSITION OF OTHER FEES.**—A fee may not be imposed for a service or activity under this section during any period in which a fee for the same service or activity is imposed under section 45305.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103–429, §6(59), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 112–95, title I, §122(c), Feb. 14, 2012, 126 Stat. 20; Pub. L. 115–254, div. B, title V, §539(j), Oct. 5, 2018, 132 Stat. 3371.)

#### HISTORICAL AND REVISION NOTES PUB. L. 103–272

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>                                                                                        |
|------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------|
| 45302(a) .....         | 49 App.:1303 (note).      | Nov. 18, 1988, Pub. L. 100–690, §7214, 102 Stat. 4434.                                                                   |
| 45302(b), (c) .....    | 49 App.:1354(f)(1)–(3).   | Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §313(f); added Nov. 18, 1988, Pub. L. 100–690, §7207(c)(1), 102 Stat. 4427. |
| 45302(d) .....         | 49 App.:1354(f)(4).       |                                                                                                                          |

In subsection (b), before clause (1), the text of 49 App.:1354(f)(3) is omitted as obsolete because the final regulations are effective. The word “impose” is substituted for “establish and collect” for consistency.

In subsection (d), the words “Money collected from fees imposed” are substituted for “The amount of fees collected” for clarity and consistency.

#### PUB. L. 103–429

This amends 49:45302 because the final regulations are not yet effective.

#### AMENDMENTS

2018—Subsecs. (d), (e)(1). Pub. L. 115–254 substituted “44703(g)(2)” for “44703(f)(2)”.

2012—Subsec. (e). Pub. L. 112–95 designated existing provisions as par. (1), inserted heading, and added par. (2).

1994—Subsec. (e). Pub. L. 103–429 added subsec. (e).

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

#### INSPECTOR GENERAL AUDIT

Pub. L. 100–690, title VII, §7207(c)(4), Nov. 18, 1988, 102 Stat. 4428, as amended by Pub. L. 104–66, title II, §2041, Dec. 21, 1995, 109 Stat. 728, provided that: “During the 5-year period beginning after the date on which fees are first collected under section 313(f) of the Federal Aviation Act of 1958 [see subsec. (b) of this section], the Department of Transportation Inspector General shall conduct an annual audit of the collection and use of such fees for the purpose of ensuring that such fees do not exceed the costs for which they are collected and submit to Congress a report on the results of such audit.”

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 30th item on page 4 identifies a reporting provision which, as subsequently amended, is contained in section 7207(c)(4) of Pub. L. 100–690, set out as a note above), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.]

#### § 45303. Administrative provisions

(a) **FEES PAYABLE TO ADMINISTRATOR.**—All fees imposed and amounts collected under this chapter for services performed, or materials furnished, by the Federal Aviation Administration are payable to the Administrator of the Federal Aviation Administration.

(b) **REFUNDS.**—The Administrator may refund any fee paid by mistake or any amount paid in excess of that required.

(c) **RECEIPTS CREDITED TO ACCOUNT.**—Notwithstanding section 3302 of title 31, all fees and amounts collected by the Administration, except insurance premiums and other fees charged for the provision of insurance and deposited in the Aviation Insurance Revolving Fund and interest earned on investments of such Fund, and except amounts which on September 30, 1996, are required to be credited to the general fund of the Treasury (whether imposed under this section or not)—

(1) shall be credited to a separate account established in the Treasury and made available for Administration activities;

(2) shall be available immediately for expenditure but only for congressionally authorized and intended purposes; and

(3) shall remain available until expended.

(d) **ANNUAL BUDGET REPORT BY ADMINISTRATOR.**—The Administrator shall, on the same day each year as the President submits the annual budget to Congress, provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(1) a list of fee collections by the Administration during the preceding fiscal year;

(2) a list of activities by the Administration during the preceding fiscal year that were supported by fee expenditures and appropriations;

(3) budget plans for significant programs, projects, and activities of the Administration, including out-year funding estimates;

(4) any proposed disposition of surplus fees by the Administration; and